

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD., a  
Japan corporation,

Plaintiff,

vs.

QK HOTEL, LLC, a Hawaii limited  
liability company, et al.

Defendants

and

FRANKLIN K. MUKAI,

Third-Party Plaintiff,

vs.

SPORTS SHINKO (USA) CO., LTD.,  
a Delaware Corporation, et al.

AND CONSOLIDATED CASES

CV 04-00124 ACK-BMK

CV 04-00125 ACK-BMK

CV 04-00126 ACK-BMK

CV 04-00127 ACK-BMK

CV 04-00128 ACK-BMK

CONSOLIDATED CASES

DECLARATION OF  
ROBERT A. MARKS

DECLARATION OF ROBERT A. MARKS

Pursuant to 28 U.S.C. § 1746, ROBERT A. MARKS states as follows:

1. I am an attorney licensed to practice before this Court and a resident of the City and County of Honolulu, State of Hawaii.

2. I make the statements in this declaration based upon personal knowledge.

3. Attached and marked exhibit A is a true, correct, and complete copy of the Order Denying Defendants' Motion For Summary Judgment in CV No. 04-00128 ACK/BMK, filed in the United States District Court for the District of

Hawaii in CV Nos. 04-00124 ACK-BMK, 04-00125 ACK-BMK, 04-00126 ACK-BMK, 04-00127 ACK-BMK and 04-00128 ACK-BMK on March 29, 2006.

Judicial notice of this exhibit is requested.

4. Attached and marked exhibit C is a true, correct, and complete copy of the Transcript of Proceedings before the Honorable Alan C. Kay, United States District Judge, on March 20, 2006 at 1:30 p.m. on KG Defendants' Motion for Summary Judgment In CV 04-00128 ACK-BMK and Defendants Franklin K. Mukai's Joinder in KG Defendants' Motion for Summary Judgment in CV 04-00128 ACK-BMK and Motion to Strike Joinder By Defendant Mukai in KG Defendants' Motion for Summary Judgment in CV 04-00128 ACK-BMK filed on February 17, 2006 ("Transcript"). The Transcript was filed in the United States District Court for the District of Hawaii in CV Nos. 04-00124 ACK-BMK on March 24, 2006. Judicial notice of this exhibit is requested.

5. Attached and marked exhibit D is a true and correct copy of excerpts of Plaintiffs Sports Shinko (USA) Co., Ltd.'s Response to Defendant Pukalani Golf Club, LLC's First Request for Answers to Interrogatories to Plaintiff Sports Shinko (USA) Co., Ltd. Dated February 22, 2005. Exhibit D was received by declarant from plaintiffs' counsel on or about May 13, 2005.

6. Attached to the declaration of Yasuo Nishida are true and correct copies of a) the First Amended Complaint to Set Aside Fraudulent Transfers, For

Declaratory and Injunctive Relief and Damages, filed January 7, 2003 in Sports Shinko (USA) Co., Ltd. et al. v. Resort Management Services (Hawaii), Inc., et al., Hawaii 1<sup>st</sup> Cir. Civil No. 02-1-2766-11 (“the RMS litigation”); b) the Notice of Partial Dismissal of Claims Against Defendants Resort Management Services (Hawaii), Inc. and Yasuo Nishida With Prejudice, filed in the RMS litigation on January 3, 2005, and c) a deed transferring certain real property from Resort Management Services (Hawaii), Inc. to Sports Shinko (Pukalani) Co., Ltd. recorded on December 30, 2004 at the Hawaii Bureau of Conveyances, marked exhibits N1, N2 and N3, respectively. Judicial notice of these exhibits is requested.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Honolulu, Hawaii on April 12, 2006.

/s/ Robert A. Marks  
ROBERT A. MARKS